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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,458	03/03/2005	Reinhold Oppen	A-10274	3831
181 7590 04/21/2008 MILES & STOCKBRIDGE PC 1751 PINNACLE DRIVE SUITE 500 MCLEAN, VA 22102-3833				
EXAMINER SAUTHER, FLEMMING				
ART UNIT 3677		PAPER NUMBER		
NOTIFICATION DATE 04/21/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/526,458

Applicant(s)

OPPER, REINHOLD

Examiner

Flemming Saether

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3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-28, 30, 32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 7, 17, 19, 28, 30, 32 and 34-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-16, 18, 20-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-849)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Specification

The disclosure is objected to because of the following informalities: it is not properly descriptive to describe a conical surface as also flat because a conical surface by definition would not be flat.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 8-16, 18 and 20-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The "blunt projection" is considered new matter since the projection is disclosed only as forming a point.

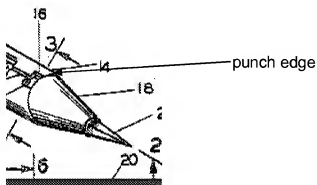
Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 8, 10, 11, 14-16 18, 20, 22, 23, 26 and 27 continue to be rejected under 35 U.S.C. 102(b) as being anticipated by Tendler (US 3,398,627). Tendler discloses a blind rivet (A) comprising a hollow shank (9-11) having a sethead (4), a deformation segment (see Fig. 8) and a connection segment for connecting to a foot (19) of a mandrel (21). The shank includes an end face (20, 28) having an outer periphery which meets the outermost periphery of the shank to form a punch edge (see below) and the mandrel forms a protrusion (28) at the center of the end face though an open end of the shank. The end face is shown to be overall smooth with a conical (at 20) and pyramidal (at 28) surface and is circular in cross section (see Fig. 3). The mandrel includes a widened head and the other end is inherently hardened by the formation of the threads and pointed tip. The mandrel head is further spaced sethead of the shank by way of an interposed washer. The passes smoothly since both the sleeve and mandrel are formed with the same angle and since the claims are specific to the fraction the configuration in Tendler also would inherently form a fraction.



Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 12, 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tender. Tender does not disclose the amount of angle at the end face being in the range of 93 to 96 degrees. However, the angle would have been obvious through routine experimentation because at the time the invention was made, it would have been obvious for one of ordinary skill in the art to experiment with the angles to find the optimal angle for the end face for the fastener to be driven through a particular material. Once the angle was recognized, the shallow head would have been an inherent side effect.

Claims 13 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tendler as applied to claims 1 and 3 above, and further in view of Lesowsky (US 4,353,673). Lesowsky teaches, as an alternative, to make the fastening element substantially polygonal (see Figs. 9-11). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to make the device of Tendler in a substantially polygonal shape as disclosed in Lesowsky since the polygonal shapes are an alternative to the circular shape.

Response to Remarks

The new drawings have been approved.

The rejection under 112 second paragraph has been obviated by amendment. However, the amendment introduced a 112 first paragraph as noted above.

Applicant argues that the claims define over Tendler because in Tendler the mandrel is not a pull type. In response, while the agrees with applicant's argument the Tendler reference continues to anticipate the claims. All the claims require is the mandrel head to be spaced from the sleeve which in Tendler, since there is a washer between the head and sleeve it requires the head to be spaced from the sleeve in order to accommodate the washer. Furthermore, the prior response notwithstanding, the device of Tendler would be capable of being set with a mandrel being pulled and also, since pull type mandrels are well known it would have been an obvious modification to Tendler.

Further in regards to Tendler, applicant argues that Tendler does not disclose a "blunt projection". In response, the examiner disagrees because Tendler discloses a projection similar to that disclosed in the instant application. As discussed above, the "*blunt projection*" [italic added] is believed to be new matter. And, also as discussed above, the conical surface cannot also be flat.

Applicant argues that the 103 rejection of claims 9, 12, 21 and 24 is untenable but fails to address why. As such no response is believed necessary.

Applicant argues that in *Tendler* there is not disclose a punch edge nor is the surface smooth. In response, the examiner disagrees because as discussed above the included figure shown a punch edge and the common angle between the mandrel and sleeve provide a smooth surface. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Flemming Saether
Primary Examiner
Art Unit 3677

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Primary Examiner, Art Unit 3677